



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Bureau of Competition
Health Care Division

December 18, 2020

The Honorable Denise Cote
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1910
New York, NY 10007

MEMO ENDORSED

Re: *FTC, et al. v. Vyera Pharmaceuticals, LLC, et al.*, 1:20-cv-00706 (DLC)

Dear Judge Cote:

The Federal Trade Commission respectfully requests permission to file under seal Plaintiffs' motion to review Vyera's claims of privilege over portions of its board minutes.

Plaintiffs will attach to our letter motion a letter from Vyera concerning this dispute from yesterday, December 17, as Exhibit 2. Pursuant to the Court's sealing orders, ECF 261 and 266, Plaintiffs requested that Vyera provide "proposed findings" for sealing this exhibit. Vyera responded as follows:


Exhibits A and B to the December 17, 2020 letter [i.e., Exhibit 2] are minutes of meetings of the board of directors of Phoenixus AG. While portions of the minutes that are covered by the attorney-client privilege are redacted, the unredacted portions of the minutes describe commercial matters before the board and the board's deliberation of those matters. Accordingly, the minutes contain 'commercial or business information that is commercially sensitive,' and thus qualify as 'confidential' or 'highly confidential' information under the Stipulated Protective Order. Since portions of the December 17, 2020 letter describe the contents of the 'confidential' or 'highly confidential' information contained in the minutes, those portions of the December 17, 2020 letter must be sealed as well.

For these reasons, Plaintiffs will file portions from our letter motion that quote or paraphrase Exhibit 2 under seal as well. In accordance with Rule 7.B of Your Honor's Individual Practices in Civil Cases and with the requirements for electronically filing under seal, the FTC will publicly file a redacted version of Plaintiffs' letter motion, an unredacted version of Exhibit 1, and a redacted version of Exhibit 2. On a separate docket entry, the FTC will file under seal the letter motion and Exhibit 2 with the proposed redactions highlighted.

Sincerely,

/s/ Markus H. Meier
Assistant Director

Granted.
12.21.2020


DENISE COTE
United States District Judge